

Burns Harbor Town Council
Regular Meeting
October 12, 2016

The Town Council of the Town of Burns Harbor, Porter County, Indiana met in its regular session on Wednesday, October 12, 2016 in the Town Hall. The meeting was called to order by Council President, Raymond Poparad at 7:00 p.m.

The Pledge of Allegiance to the American Flag was recited.

Roll Call: Toni Biancardi ----- Present

Andrew Bozak ----- Present

Eric Hull ----- Present

Raymond Poparad ---- Present

Marcus Rogala ----- Present

Clerk-Treasurer Jane Jordan was present. A quorum was attained.

Additional Officials Present: Attorney Clay Patton, Town Marshal Michael Heckman, Street Superintendent Pat Melton and Building Commissioner/Fire Chief/Sanitation Superintendent William Arney.

Approval of Minutes:

Councilwoman Biancardi made a motion to approve September 14, 2016 meeting minutes.

Councilman Hull seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Aye. **Motion passed.**

Reports:

Clerk-Treasurer Jordan informed the Council she would be attending State Board of Account School in Middlebury tomorrow.

Councilman Rogala informed those present the Park Director Kim Burton was awarded the 2016 Ivan H. Brinegar Municipal Management Award from the Indiana Association of Cities and Towns for her twenty-one years of service at the Park.

Street Superintendent Melton informed the Council that the last brush pick up will be October 17th. Leaf pick up will begin October 24th. Councilman Rogala asked that grass seed be thrown on bare spots at the Town's Westport property.

Park Board representative Angie Scott informed those present that the new playground equipment has been ordered. The Park is applying for grants for additional playground equipment to be installed on the east side of the park. Mr. Pasternak has marked twenty trees he would like the park to consider removing. He has not marked the fifty trees he would like topped for better view of a LED lit billboard he plans to install on his property. The matter will be discussed at the Park Board's November 1st meeting. The Pumpkin Fest and 5K will be October 22nd; volunteers are still needed. Donations of candy and/or prizes can be left at Town Hall. Councilman Rogala asked Street Superintendent Melton to arrange to have North Babcock cleared of vehicles the day of the race.

The following purchase orders were presented for discussion: purchase order #2405.

Correspondence:

IDEM – Notice of Public Comment – JEM Industries, LLC in Porter County

IDEM – Approval of US Steel Midwest Plant, Portage Title V Significant Permit Modification

Porter County Election Board – Request use of Town Hall for November 8 election

Councilwoman Biancardi made a motion to allow the Town Hall to be used as Burns Harbor's polling place for the November 8th election. Councilman Bozak seconded the motion.

Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Aye. **Motion passed.**

Councilwoman Biancardi informed those present that the Planning Commission has moved their November meeting to November 14th to accommodate the use of the meeting room for the November election.

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Presentations, Resolutions, Ordinances and Remonstrance:

Ordinance 2016-16 Adoption of 2017 Budget:

Councilman Bozak made a motion that the Town adopts Ordinance 2016-16 2017 Budget.

Ordinance Number: 2016-16

Be it ordained/resolved by the Burns Harbor Town Council that for the expenses of Burns Harbor Civil Town for the year ending December 31, 2017 the sums herein specified are hereby appropriated and ordered set apart out of the several funds herein named and for the purposes herein specified, subject to the laws governing the same. Such sums herein appropriated shall be held to include all expenditures authorized to be made during the year, unless otherwise expressly stipulated and provided for by law. In addition, for the purposes of raising revenue to meet the necessary expenses of Burns Harbor Civil Town, the property tax levies and property tax rates as herein specified are included herein. Budget Form 4-B for all funds must be completed and submitted in the manner prescribed by the Department of Local Government Finance. This ordinance/resolution shall be in full force and effect from and after its passage and approval by the Town of Burns Harbor.

Name of Adopting Entity / Fiscal Body	Type of Adopting Entity / Fiscal Body	Date of Adaption
Town of Burns Harbor	Town Council	10/12/2016

DLGF-Reviewed Funds				
Fund Code	Fund Name	Adopted Budget	Adopted Tax Levy	Adopted Tax Rate
0101	General	\$1,812,469	\$1,700,000	0.3008
0706	Local Road & Street	\$50,000	\$0	0.0000
0708	Motor Vehicle Highway	\$142,837	\$125,000	0.0221
1303	Park	\$104,474	\$100,000	0.0177
1310	Park Non-Reverting – Capital	\$800	\$0	0.0000
2391	Cumulative Capital Development	\$180,000	\$180,000	0.0400
2411	Economic Dev Income Tax CEDIT	\$79,000	\$0	0.0000
6290	Cumulative Sewer	\$53,500	\$12,000	0.0021
Home-Ruled Funds (Not Reviewed by DLGF)				
Fund Code	Fund Name	Adopted Budget		
9506	Redevelopment – General	\$1,195,000		
9507	Redevelopment – Operation	\$5,000		
9509	Park Non-Revert Operation	\$5,000		
9510	Local Law Enf Cont Educ	\$29,389		
		\$1,234,389		

Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Abstain. **Ordinance 2016-16 was passed and adopted.**

Resolution 2016-20 ArcelorMittal Petition for an Assessed Valuation Deduction:

Councilman Bozak made a motion that the Town adopts **Resolution 2016-20 A Resolution of the Town Council of the Town of Burns Harbor, Porter County, Indiana Granting ArcelorMittal Burns Harbor LLC an Assessed Valuation Deduction (Tax Abatement) For Tangible Personal Property Pursuant to Indiana Code 6-1.1-12.1**

WHEREAS, on November 12, 2014, the Town Council of the Town of Burns Harbor, Porter County, Indiana (the “Town Council”) adopted Resolution No. 2014-15 (the “Declaratory Resolution”) designating an area of approximately 1,800 acres currently zoned for industrial for integrated steel and ancillary support and used generally located north of U.S. Route 12 as an “economic revitalization area” (an “ERA”), within the meaning of an ERA as defined under Indiana Code § 6-1.1-12.1-1(I), more specifically to be known as the Lakeshore Industrial ERA, for a period of ten (10) years set to expire on sunset on December 10, 2024 consistent with the ERA Resolution; and

WHEREAS, on December 10, 2014, the Town Council adopted Resolution No. 2014-16 (the “Confirmatory Resolution”) confirming the Declaratory Resolution that designated the Lakeshore Industrial ERA; and

WHEREAS, the ERA remains in full force and effect pursuant to the Declaratory Resolution as approved in accordance with Indiana Code 6-1.1-12.1 (the “Act”); and

WHEREAS, ArcelorMittal Burns Harbor LLC (the “Company”) on September 7, 2016 filed with the town Council a Statements of Benefits Personal Property (FORM SB-1/PP) dated **September 7, 2016** (as attached hereto as **EXHIBIT A**) proposing personal property investments, more specifically related to the installation of depreciable personal property and manufacturing equipment over a three-year period from August 10, 2016 through December 31, 2019 (the “Power House Phase B Rebuild Project” or the “Project”) to be located at the Company’s manufacturing facilities within the Lakeshore Industrial ERA (the Company’s “Burns Harbor, IN facility”) to be a total cost of investment of \$86,000,000; and

WHEREAS, as it relates to the Power House Phase B Rebuild Project, “installed” shall be defined as consistent with 50 IAC 10-1-2 pursuant to Indiana Administration Code Article 10 titled Economic Revitalization Area Deduction, more specifically under Sections (a) through (d) which state:

- (a) Personal property that: (1) has been completely assembled; (2) is completely functional for the purpose for which it was acquired; and (3) is placed in service.
- (b) When different pieces of personal property are linked together as part of an integrated production process, personal property will not be considered installed until the integrated production process is completely functional and is placed in service.

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- (c) Personal property that is subjected to a preliminary test period for testing process shall not be considered installed until the conclusion of the test period or testing process. However, a test period or testing process may not be longer than is reasonably necessary to complete the needed testing, and therefore personal property that has been placed in service and is in operation for a substantial period of time shall not be considered to be within a test period or testing process.
- (d) For purposes of substantiating the date of completion of the installation of property, the owner may use production records or other records that reflect when the property was completely assembled, completely functional for the purpose for which it was acquired, fully operation, and placed in service.

WHEREAS, the Company has identified in a description of the Power House Phase B Rebuild Project that it intends to install and place into service by December 31, 2019 for first assessment on January 1, 2020 with taxes due and payable in 2021; and

WHEREAS, the Company on September 7, 2016 submitted and filed with the Town Council a letter requesting a tax abatement pursuant to Indiana Code 6-1.1-12.1-4.5 (the "Petition") (as attached hereto as **EXHIBIT B**) for which said FORM SB-1/PP dated September 7, 2016 was attached; and

WHEREAS, the Power House Phase B Rebuild Project will consist of the installation of new manufacturing equipment to be acquired by the Company for use in the manufacturing process of the Company consistent with Section 1, subsections (3) of the Act, for which said new manufacturing equipment has never before been used by the Company for any purposed in the State of Indiana, consistent with Sections 1, sub-sections (3)(D) of the Act; and

WHEREAS, the benefits of the Project and tax savings to the Company as a result of an assessed valuation deduction, if approved for a period of ten years at an abatement percentage schedule to be applied to qualified property beginning the first year(s) of the installation of personal property equipment: Year 1: 100%; Year 2: 100%; Year 3: 100%; Year 4: 75%; Year 5: 75% Year 6: 50%; Year 7: 50%; Year 8: 50%; Year 9: 50%; Year 10: 50%, pursuant to Section 17(b) of the Act; and

WHEREAS, upon review and consideration of the economic impact to the Town and its overlapping taxing units and based upon the evidence as to whether the Company shall be allowed an assessed valuation deduction for personal property manufacturing equipment installed as part of the Power House Phase B Rebuild Project placed into service as detailed above herein, the Town Council desires to make a determination pursuant to Section 4.5 of the Act.

NOW, THEREFORE, BE IT RESOLVED, that the actions of the Town Council of the Town of Burns Harbor, Porter County, Indiana are based upon the evidence as presented by the Company after review of the Statement of Benefits (FORM SB-1/PP) as well as other pertinent information provided by the Town's attorney and upon the following findings pursuant to Section 4.5(b) of the Act, such that:

- (1) Project and the estimates of cost of equipment and its expectations are reasonable for project(s) of its nature;
- (2) The estimated number of individuals who will be employed or whose employment will be retained can reasonably be expected to result from the Project;
- (3) The estimate annual salaries of those individuals who will be employed or whose employment will be retained can reasonably be expected to result from the Project;
- (4) Other ancillary benefits about which information was requested by the Town Council are benefits that can be reasonably expected to result from Project
- (5) The totality of the benefits is sufficient to justify and assessed valuation deduction on the Project.

BE IT FURTHER RESOLVED that the Town Council acknowledges that the area for which the Power House Phase B Rebuild Project is to be installed and placed into service is not located within a designated allocation area of the Burns Harbor Redevelopment District.

BE IT FUTHER RESOLVED that the Town Council hereby grants an assessed valuation deduction (Tax Abatement) of depreciable personal property – new machinery equipment limited to a total cost of \$86,000,000 as installed and placed into service as part of the Power House Phase B Rebuild Project for installation and to be placed into service consistent with 50 IAC 10-1-2 by or on December 31, 2019 for the January 1, 2020 assessment dates as detailed above herein, in accordance with the Act.

BE IT ALSO RESOLVED that the abatement period for assessed valuation deductions (Tax Abatement) granted and approved pursuant to Section 4.5 of the Act of depreciable personal property - new machinery equipment as installed and placed into service consistent with 50 IAC 10-1-2 as part of the Power House Phase B Rebuild Project shall be **Ten (10) years**, such that the abatement percentages applied pursuant to Section 17(b) of the Act as identified below shall apply (or be "layered") to annual investments placed into service by or on **December 31, 2019**.

Approved Abatement Schedule:	
Year One (1)	100%
Year Two (2)	100%
Year Three (3)	100%
Year Four (4)	75%
Year Five (5)	75%
Year Six (6)	50%
Year Seven (7)	50%
Year Eight (8)	50%
Year Nine (9)	50%
Year Ten (10)	50%

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BE IT FURTHER RESOLVED that having received the consent of the Company and in accordance with Section 14(b) of the Act, a copy of which is attached hereto as **EXHIBIT C** and is made a part hereof as incorporated herein, and pursuant to Section 14 of the Act for each year the Company's personal property tax liability is reduced by an assessed valuation deduction (Tax Abatement) related specifically to the Power House Phase B Rebuild Project, the Company shall pay to the Porter County Treasurer a fee in the amount computed and determined by the Porter County Auditor pursuant to the provisions of Section 14(c) of the Act (the "Imposed Fee") such that:

- (1) The Town Council hereby determines that **fifteen percent (15%)** shall be the percentage to be applied by the Porter County Auditor for purposes of STEP TWO of subsection (c) of Section 14 of the Act;
- (2) Accordingly, for each year the Imposed Fee is payable by the Company, the Imposed Fee shall be equal to the lesser of One Hundred Thousand Dollars (\$100,000) or fifteen percent (15%) of the additional amount of personal property taxes that would have been paid by the Company during that year of the deductions approved in this Resolution has not been in effect (i.e. 15% of the Company's personal property tax savings attributable to a deduction from the assessed valuation from the Power House Phase B Rebuild Project; and
- (3) The Imposed Fee as collected shall be distributed to the **Town of Burns Harbor Redevelopment Commission** as a public entity established to promote economic development within the corporate limits of the Town as determined by the Town Council as the designated body.

BE IT FURTHER RESOLVED that the Company has agreed to the following imposed reasonable condition for approval of an assessed valuation deduction for personal property as herein specified and authorized pursuant to Section 2(i)(6) of the Act and as included under Item G (page 2) of the approved FORM SB-1/PP (Statement of Benefits Personal Property):

Condition: The Company by May 10 of each calendar year during the period for which an assessed valuation deduction is applicable shall submit to the Town as it applies to the Power House Phase B Rebuild Project, the FORM 103-P5/ERA to supplement the FORM CF-1/PP (Compliance with Statement of Benefits) that is annually filed with the Town for each personal property assessed valuation deduction so that the Town may verify and confirm the assessed valuation deductions reported by the Company to the Porter County Assessor to calculate said annual assessed valuation deduction for submission to the Office of the Porter County Auditor.

BE IT FURTHER RESOLVED that the Town agrees to comply with the privacy notice of said FORM 103-P5/ERA as a confidential filings in accordance with I.C. 6-1.1-35-9 and that said document: (i) is statutorily required filing for the Town to review a personal property assessed valuation deduction of the company but as reasonable condition as herein specified and included under Item G (page 2) of an approved FORM SB-1/PP (Statement of Benefits Personal Property) and (ii) is submitted by the Company to supplement its annual filed FORM CF-1/PP (Compliance with Statement of Benefits) such that Town may only utilize said form to verify and confirm the assessed valuation deductions reported by the Company and/or approved by the Office of the Porter County Assessor; and, therefore said document is deemed not to be public record(s) and shall not be made available to the public.

BE IT FURTHER RESOLVED that the final determination of the amount of assessed valuation deduction of the Power House Phase B Rebuild Project for tangible depreciable personal property based upon annually required filings shall be made by the appropriate Porter County assessing agency, review board or State of Indiana agency.

BE IT FURTHER RESOLVED that if the Company upon submission of a FORM CF-1/PP (Compliance with Statement of Benefits Personal Property): (i) is found to be **NOT** in substantial compliance with the Statement of Benefits – as executed and filed by the Company as dated September 7, 2016 - for which a notice must be sent to the Company stating the reasons for said determination and that the Town Council has scheduled to hearing for the Company to appeal said determination of the Town Council and (ii) the Town Council upon said hearing determines that the Company has NOT made reasonable effort(s) to comply with the Statement of Benefits may by resolution terminate said assessed valuation deduction (tax abatement) and implement the Claw Back Provision as attached hereto as **EXHIBIT D** in order to reimburse tax units for tax saving realized by the Company.

BE IT FURTHER RESOLVED that the Clerk-Treasurer of the Town is hereby directed to file with the **Office of the Porter County Assessor** the following information as it applies to this Resolution and the approval of the Company's assessed valuation deduction:

- (1) The FORM SB-1/PP, as approved, properly completed and executed consistent with this Resolution and as signed and attested by the appropriate Town officials;
- (2) A certified copy of this Resolution; and
- (3) A copy of the meeting minutes which approved this Resolution and the FORM SB-1/PP.

BE IT FURTHER RESOLVED that the Clerk-Treasurer of the Town is hereby directed to file with the **Office of the Porter County Auditor** the following information as it applies to this Resolution and the approval of the Company's assessed valuation deduction:

- (1) The FORM SB-1/PP, as approved, properly completed and executed consistent with this Resolution and as signed and attested by the appropriate Town officials;
- (2) A certified copy of this Resolution; and
- (3) A copy of the meeting minutes which approved this Resolution and the FORM SB-1/PP.

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BE IT FUTHER RESOLVED that if any part, clause, or portion of this Resolution shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this Resolution as a whole or any other part, clause, or portion of this Resolution.

BE IF FURTHER RESOLVED that this Resolution shall be in full force and effect from and after its passage and adoption by the Town Council and its execution by the appropriate signatories hereto.

EXHIBIT D

Assessed Valuation Deductions: Claw Back Provision

Section I. If an assessed valuation deduction applicant does not obtain ninety (90%) of the level of wages and/or number of employees it has set forth in its approved Statement of Benefits within the time frame set forth in the same Statement of Benefits, the Town Council of the Town of Burns Harbor, Porter County, Indiana (the "Town Council"), as the designating body following the procedures of IC 6-1.1-12.1-5.9, *may* impose this claw back provision requiring the applicant to pay back all tax savings realized as a result of an assessed valuation deduction proportional to the extent of the deficiency in levels of wages and/or number of employees. A determination by resolution to impose the claw back provision is the sole discretion of the Town Council as the designated body and may be dependent upon various factors and variables uniquely applicable to each approved Statement of Benefits.

Section II. This claw back provision may be imposed by the Town Council as the designated body for a period of one year and subsequent to the final assessment date applicable to the approved abatement period of an assessed valuation deduction applicant as documented in the resolution approving the Statement of Benefits.

Section III. Upon determination by resolution to impose the claw back provision, the Town Council shall have a professional municipal financial advisor: (i) calculate the tax savings realized as a result of an assessed valuation deduction proportional to the extent of the deficiency in levels of wages and/or number of employees as determined by the **FORM SB-1** as approved by the Town Council and (ii) calculate the distribution of the claw back payment to the Town of Burns Harbor, Porter County, Indiana (the "Town") proportional to each overlapping taxing unit for which the tax payable year the claw back provision is applied, as based upon the percentage of the overlapping taxing unit's tax rate to the gross tax rate for the appropriate tax unit, being Tax Unit 024 (Burns Harbor – Westchester Township).

Section IV. Prior to notification to the approved applicant of an assessed valuation deduction for which this claw back provision is imposed, the Town Council shall notify the Office of the Porter County Auditor and/or the Office of the Porter County Assessor as to the imposition of the claw back provision. The Town Council shall also submit the calculation of the claw back payment and its distribution to the overlapping taxing units pursuant to Section III for confirmation and verification prior to final imposition and notification of this claw back provision to the approved applicant of an assessed valuation deduction.

Section V. The Office of the Porter County Auditor shall provide written confirmation and verification as to the amount of the claw back payment and the proportional distribution of the claw back payments to the overlapping taxing units as calculated for the Town Council pursuant to Section III.

Section VI. Upon notice from the Office of the Porter County Auditor that the claw back payment and the distribution of the claw back payment to the overlapping taxing units is confirmed and verified, the Town Council shall notify approved applicant of an assessed valuation deduction via USPS certified mail-return receipt that this claw back provision is imposed. Said notice shall include the calculation of the claw back payment, its distribution to the overlapping taxing units and a statement that the calculations have been confirmed and verified by the Office of the Porter County Auditor prior to notification.

Section VII. Prior to the distribution to the overlapping taxing units of claw back payment made to the Town, the Town Council shall notify the Office of the Porter County Auditor and/or the Office of the Porter County Assessor as to the receipt of a claw back payment for its files pertaining to the assessed valuation deduction.

Section VIII. The Town shall distribute claw back payments to all overlapping taxing units via USPS certified mail-return receipt no later than 30 days from the date of the receipt for the claw back payment.

Section IX. Upon return of all USPS certified mail-return receipts from the overlapping taxing units, the Town Council shall provide copies of the return receipts to the Office of the Porter County Auditor, and if applicable to the Office of the Porter County Assessor, as documentation that the imposed claw back payment was distributed to overlapping taxing units.

Councilman Hull seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Aye.
Resolution 2016-20 passed and was adopted.

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MasterLink Concrete Pumping, LLC for an assessed valuation deduction:
Matter tabled.

Ordinance 274-2016 Amending the Town's fee schedule:

After discussion, Council consensus was to send the matter to the Planning Commission.

New Business:

Trick-or-Treat date and time:

Town Marshal informed those present that Trick-or-Treat will be October 31st from 5:30 p.m. to 7:30 p.m.

Approval to Pay Vouchers:

Councilwoman Biancardi moved to approve all vouchers with three or more signatures. Councilman Hull seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Aye. **Motion passed.**

Approval of Financial Report:

Councilwoman Biancardi moved to approve the September 2016 financial report. Councilman Hull seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Aye. **Motion passed.**

Old Business:

None presented.

Good of the Order of the Community:

Fire Chief Arney informed those present the Fire Department Annual Spaghetti Dinner will be Saturday, October 15th from 4:00 p.m. to 7:00 p.m.

Councilman Poparad informed those present that a stop work order was placed on the Tradition Apartments building project for illegally dumping more than one hundred truckloads of dirt on property located on the south side of U.S. 20.

Martin Bobcek from Global Engineering and Land Surveying informed the Council the firm is completing plans for the Westport drainage project and report at next week's Storm Water meeting.


Clerk-Treasurer Jordan informed those present that the Indiana Boundary sign has been ordered. The Line has been marked by Global Engineering.

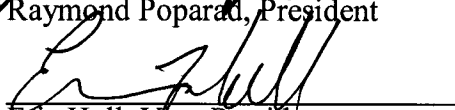
Councilman Poparad informed those present that Ozinga Ready Mix Concrete will not be moving to Burns Harbor due to cost associated with remodeling the building at 301 Melton Road.

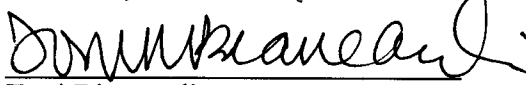
Councilwoman Biancardi made a motion that we adjourn. Councilman Hull seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Aye. **Motion passed.**

There being no further business to discuss, the meeting concluded at 7:34 p.m.

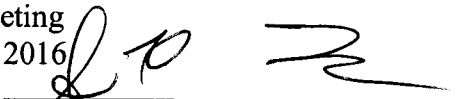
TOWN COUNCIL OF THE
TOWN OF BURNS HARBOR


Raymond Poparad, President



Eric Hull, Vice-President


Toni Biancardi

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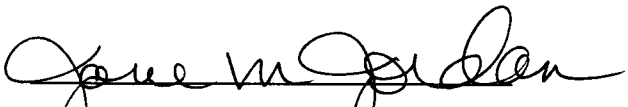


Andrew Bozak



Marcus Rogala

ATTEST:


Jane M. Jordan, IAMC, MMC, CPFA, CPFIM
Clerk-Treasurer